

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 4, 2006

To: RAILROADS ELIGIBLE TO RECEIVE REIMBURSEMENT FUNDS UNDER PUBLIC UTILITIES CODE SECTION 2131.1 FOR CROSSING MAINTENANCE

**NOTICE OF RESOLUTION RECOMMENDING REIMBURSEMENT
OF \$4.1 MILLION FOR CROSSING MAINTENANCE COSTS
AND OPPORTUNITY TO COMMENT**

A draft resolution (SX-74) by the Consumer Protection and Safety Division recommending reimbursement to railroads for costs of crossing maintenance is scheduled for consideration on the September 7, 2006 Commission meeting agenda. The Commission may vote on the resolution at that time, or it may postpone a vote. The Commission may adopt all or part of SX-74, amend or modify it, or set it aside and prepare a different resolution.

The Commission will consider the draft resolution at its September 7, 2006 meeting. Railroads eligible to receive these funds may file comments on the draft resolution, and may file replies to comments. An original and 2 copies of comments must be filed with the Consumer Protection and Safety Division by August 24, 2006, at the address set forth below. Reply comments must be filed by August 29, 2006. Commenters must also serve comments, and reply comments, on the other potentially eligible railroads, and send copies of comments and reply comments by electronic mail to the e-mail address below. Comments shall focus on factual, legal or technical error in the draft resolution, and reply comments shall be limited to identifying misrepresentations of law and fact contained in the comments of other parties. (See Rule 77.7 for detailed requirements.) Eligible railroads may view comments at the Commission's San Francisco Office.

Eligible railroads may review the draft resolution and service list at the "Currently Open for Comment" section of the Commission's Internet site at cpuc.ca.gov.

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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Safety Division
Rail Transit and Crossings Branch
Rail Crossings Engineering Section

Resolution SX-74
September 7, 2006

RESOLUTION

RECOMMENDATION TO THE CALIFORNIA TRANSPORTATION
COMMISSION FOR INCREASED FUNDING TO BE SET ASIDE FOR
MAINTAINING AUTOMATIC GRADE CROSSING PROTECTION
DEVICES UNDER PUBLIC UTILITIES CODE SECTION 1231.1

Summary

This resolution recommends that the California Transportation Commission (CTC) allocate the sum of \$4,100,000 for the 2007-08 fiscal year (FY) for the purpose of paying the local government's share of the cost of maintaining automatic grade crossing warning devices.

Background

The Grade Crossing Protection Maintenance Fund was established by the Legislature in 1965 to pay railroad corporations the local government's share of the cost of maintaining automatic railroad crossing warning devices installed or upgraded after October 1, 1965. Public Utilities Code Section 1231.1 requires the Department of Transportation (Caltrans) to set aside a minimum of \$1,000,000 for the payment of those costs.

In 1988, an amendment to Public Utilities Code Section 1231.1¹ was enacted which specifies that the PUC may recommend a sum greater than \$1,000,000 be set aside if it finds that the \$1,000,000 is not sufficient due to an increase in the number of grade crossing warning devices or an increase in the cost of

¹ AB 3065, (Polanco) September 29, 1988.

maintenance of those devices. The specific amount of the total allocation shall be determined by the CTC.

Discussion

When the automatic grade crossing protection maintenance fund was first established in 1965, the maximum annual allocation of \$1,000,000 was sufficient to cover all claims filed by railroad and street railroad corporations. However, the increase in the number of crossing warning devices and the increase in cost for maintaining these devices caused claims to exceed the funds available for calendar year 1977 and thereafter.

The railroads perform the required maintenance during a given calendar year, and then file a claim with the PUC for reimbursement of the local government's share of the maintenance costs. The PUC verifies the claims and forwards valid claims to Caltrans for payment. These claims are paid from the allocation made by the CTC in the Caltrans budget. Claims and payments for the past five years were as follows:

CY *	FY*	No. of crossings	Total Claims (\$)	Total Paid (\$)
2001	01-02	2,975	4,348,183	4,250,000
2002	02-03	2,814	4,076,295	4,076,295
2003	03-04	2,805	4,088,563	4,088,563
2004	04-05	2,810	4,102,674	4,102,674
2005	05-06	2,797	4,091,802	1,000,000

*CY-Calendar Year

*FY-Fiscal Year

The maintenance fund costs and respective claims for calendar year 2007 (FY 07-08) are expected to be significantly higher than the \$1,000,000 the CTC allocated for the prior 2 years, CY 2006 (FY 06-07) and CY 2005 (FY 05-06). Based on the previously submitted maintenance claims and the numbers and types of warning devices eligible, an allocation of \$4,100,000 will be needed for the 2007-2008 fiscal year and would constitute the minimum amount necessary for that maintenance.

The draft resolution was mailed to the 26 railroads which apparently may be eligible to receive funds under this program consistent with Public Utilities Code Section 311(g) and Rule 77.7 of the Rules of Practice and Procedure.

_____ comments were received.

Findings

The Commission staff has reviewed the amount needed to be allocated pursuant to Public Utilities Code Section 1231.1 and finds that an amount of \$1,000,000 will be insufficient and finds, instead, that an allocation of \$4,100,000 is the minimum amount necessary for allocation to the Grade Crossing Protection Maintenance Fund for FY 2007-2008.

Therefore, in accordance with Public Utilities Code Section 1231.1, the Commission staff finds that the PUC should recommend to the CTC that a sum of \$4,100,000 be allocated for the 2007-08 fiscal year for the purpose of paying to railroad or street railroad corporations the share of the costs to cities and counties of maintaining automatic grade crossing protection/warning devices.

Commission staff recommends that this Resolution be adopted.

THEREFORE, IT IS ORDERED that:

The PUC recommends to the CTC that a sum of \$4,100,000 be allocated for the 2007-2008 fiscal year for the purpose of paying to railroad corporations the share of the costs to cities and counties of maintaining automatic grade crossing protection/warning devices pursuant to Public Utilities Code Section 1231.1.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on _____. The following Commissioners voted favorably thereon:

STEPHEN LARSON
Executive Director